

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Ronald E. Sloan et al.	)	Group Art Unit: 3684
	)	
Application No.: 09/930,786	)	Examiner: Nga B. Nguyen
	)	
Filed: August 15, 2001	)	
	)	
For: AUTOMATED FINANCIAL	)	Confirmation No.: 3301
PORTFOLIO COACHING AND	)	
RISK MANAGEMENT SYSTEM	)	

**MAIL STOP AF**

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

Sir:

**APPLICATION FOR PATENT TERM ADJUSTMENT**

In accordance with 37 C.F.R. § 1.705(b), Applicant hereby applies for patent term adjustment under 35 U.S.C. § 154(b) of 811 days. This application is being filed before the payment of the issue fee, as required by 37 C.F.R. § 1.705(b).

**I. Statement of the Facts Involved**

**A. Correct Patent Term Adjustment**

According to the Determination of Patent Term Adjustment Under 35 USC 154(b) dated April 19, 2010, this application is entitled to 326 days of patent term adjustment. However, the USPTO calculation of patent term adjustment is incorrect.

Applicant has calculated a patent term adjustment of 811 days based on the facts set forth in Section B below.

#### **B. Relevant Dates and Delays**

The Office incorrectly determined the present application to be entitled to a patent term adjustment of 326 days. Applicant has calculated the patent term adjustment based on the following facts:

- The Application was filed on August 15, 2001. A Notice of Incomplete Application was dated September 13, 2001; and a response was due December 13, 2001. The Application was completed as of February 26, 2002, creating an **Applicant delay of 75 days**.
- The first Office Action on the merits was due October 15, 2002; but it was mailed December 18, 2003, creating a **USPTO delay of 429 days**.
- A response to the December 18, 2003, Office Action was due March 18, 2004, but it was filed April 22, 2004, creating an **Applicant delay of 35 days**.
- An Information Disclosure Statement was filed on February 18, 2005, subsequent to the February 17, 2005, Response to Non-Final Office Action, creating an **Applicant delay of 1 day**.
- A Request for Continued Examination was filed on September 12, 2005, subsequent to a May 3, 2005, Final Office Action; and an Office Action was due January 12, 2006, but prosecution did not begin again until October 31, 2007, creating a **USPTO delay of 657 days**.
  - According to the Patent Term Adjustment History in the PAIR record for the instant application, an Office Action was mailed January 20, 2006. However, the Office Action was not received by the Attorney for Applicant, as evidenced by the Requests for Status of Application, which were filed December 27, 2006, and June 22, 2007. A copy of the Requests may be seen in the Image File Wrapper in the PAIR record for the instant application.

- A Notice of Restarted Response Period, which was mailed October 31, 2007, shows that the Office conceded that the Office Action of January 20, 2006, was not received by the Attorney for Applicant.
- Further, while the Patent Term Adjustment History in the PAIR record for the instant application shows a Office Action was mailed January 20, 2006, the Image File Wrapper in the PAIR record for the instant application includes no such Office Action.
- A series of Information Disclosure Statements were filed subsequent to the Request for Continued Examination filed on September 12, 2005, creating the following Applicant delays:
  - An Information Disclosure Statement was filed on December 13, 2005, creating an **Applicant delay of 92 days**.
  - An Information Disclosure Statement was filed on May 1, 2006, creating an **Applicant delay of 139 days**.
  - An Information Disclosure Statement was filed on September 15, 2006, creating an **Applicant delay of 137 days**.
  - An Information Disclosure Statement was filed on November 2, 2006, creating an **Applicant delay of 48 days**.
  - An Information Disclosure Statement was filed on March 23, 2007, creating an **Applicant delay of 141 days**.
- The patentee is entitled to days resulting from the three year pendency delay. The Application for this patent was filed on August 15, 2001, so the three year pendency date is August 15, 2004. The first Request for Continued Examination in this application was filed on September 12, 2005, which is a difference of 393 days beyond the three year period, creating a **USPTO delay of 393 days**.
- The first Office Action on the merits was mailed December 18, 2003, which predates the three year pendency date of August 15, 2004. Therefore, there is **no overlap** between the period exceeding the three year period for issuing a patent (August 15, 2004 to September 12, 2005) and the period exceeding the fourteen month period for issuing a first action on the merits (October 15, 2002 to December 18, 2003).

Thus, Applicants are entitled to a **total of 811 days of PTA:**

<b>Delay event</b>	<b>Delay in days</b>
Application filed August 15, 2001, but completed February 26, 2002	-75
First Office Action due October 15, 2002, but mailed December 18, 2003	429
Response to December 18, 2003, Office Action due March 18, 2004, but filed on April 22, 2004	-35
IDS filed February 18, 2005, subsequent to February 17, 2005, Response	-1
Office Action after September 12, 2005 RCE due January 12, 2006, but prosecution did not begin until October 31, 2007	657
IDS filed December 13, 2005, subsequent to September 12, 2005, RCE	-92
IDS filed May 1, 2006, subsequent to December 13, 2005, IDS	-139
IDS filed September 15, 2006, subsequent to May 1, 2006, IDS	-137
IDS filed November 2, 2006, subsequent September 15, 2006, IDS	-48
IDS filed March 23, 2007, subsequent to November 2, 2006, IDS	-141
Issuance due August 15, 2004, but first RCE filed on September 12, 2005	393
<b>Total:</b>	<b>811</b>

#### **B. Terminal Disclaimer**

The above-identified application is not subject to a Terminal Disclaimer.

#### **C. Reasonable Efforts**

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing of examination of the above-identified application, as set forth in 37 C.F.R. § 1.704.

## **II. Fee**

As required by 37 C.F.R. § 1.705(b)(1), this application is accompanied by payment of \$200.00 to cover the required fee. Please charge any deficiencies to

Deposit Account 06-0916. If there are any other fees due in connection with the filing of this request, please charge them to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated:

July 14, 2010

By:

Maura K. Moran  
Maura K. Moran  
Reg. No. 31,859